

**BRIGHAM CITY PLANNING COMMISSION  
TUESDAY, JULY 18, 2006  
BRIGHAM CITY COUNCIL CHAMBERS**

PRESENT:	Kevin Lane	Chairman
	Deen Coleman	Commissioner
	David Hipp	Second Alternate
	Reese Nielsen	Vice-Chairman
	Joan Peterson	Commissioner
	Barbara Poelman	Commissioner
CITY STAFF:	Eliza McGaha	Administrative Secretary
	Mark Teuscher	City Planner
EXCUSED:	Steve Hill	City Council Liaison
	Patti Ellis	First Alternate
	Bill McGaha	Commissioner

AGENDA:  
WORK SESSION – AGENDA REVIEW

PLEDGE OF ALLEGIANCE

APPROVAL OF THE JUNE 20, 2006 MEETING MINUTES

**APPLICATION #2828** / CONDITIONAL USE PERMIT / ACCESSORY BUILDING / 461 SOUTH 100 EAST / KENNETH & CAROL HARLOW

~~**APPLICATION #2827** / BRIGHAM CITY CULINARY WATER FLORIDATION BUILDING / BRIGHAM CITY CORPORATION~~

**APPLICATION #2651** / TO RECEIVE INPUT RELEVANT TO A DESIGN GUIDELINE ORDINANCE FOR THE BRIGHAM CITY/PERRY CITY INTERLOCAL AGREEMENT AREA IDENTIFIED AS “THE COMMONS AREA”, LOCATED WEST OF MAIN STREET AND SOUTH OF 1100 SOUTH / BRIGHAM CITY CORPORATION

PUBLIC INPUT:

DISCUSSION: CHAPTER 29.12 / SENSITIVE OVERLAY ZONE

Chairman Lane opened the meeting at 6:30 p.m. David Hipp led the Pledge of Allegiance.

There were some changes to the minutes. On line 388 add ‘of a’ to the beginning of the line. On line 425 change the comma to a semi-colon. On line 473 remove the words ‘that speeds’. On line 507 change ‘has’ to ‘have’.

**MOTION:** A motion was made by Commissioner Poelman to approve the minutes of June 20, 2006 as corrected. The motion was seconded by Commissioner Nielsen and passed unanimously.

**APPLICATION #2828** / CONDITIONAL USE PERMIT / ACCESSORY BUILDING / 461 SOUTH 100 EAST / KENNETH & CAROL HARLOW

The Zoning Code under 29.15.303.1 states; “Accessory buildings, with a combined area less than or equal to two times the area of the primary structure main floor and attached garage, which are

customarily incidental to the permitted uses, but in no case shall all accessory buildings combined area be greater than 2,000 square feet.” In this case, there is the existing home, a detached structure and a proposed additional structure that will put it over 2,000 square feet. The applicant purchased a Quonset-hut type structure, which probably would not normally be seen in a residential area. There are some issues and concerns that need to be addressed with the applicant in regards to what he proposes to do with it. This is in a residential zone.

Commissioner Nielsen stated that the definition in the code was vague and asked if in the staff review there was any discussion about the intended use of the building and whether or not it was incidental to permitted uses of the residential zone. Mr. Teuscher replied that Jeff Leishman had spoken with the applicant and the applicant indicated that he wanted his own personal shop. The biggest concern the staff had was that this is a very large structure which may be bigger than the existing home. The fear of seeing a commercial use as a home occupation would be a serious concern. This type of structure is not what one would typically see in a residential zone. Our code, from a design standard, does not prohibit this. There is another structure like it in the city that was approved in the past. The biggest complaint is that it is a large metal building that will glow when the sun hits it.

Kenneth and Carol Harlow came to the table. Mr. Harlow stated that the square footage limitations, as he understood it, were written into the regulations to forestall or prevent a situation of having a tiny lot with a big building covering the entire surface area so it will not look out of place. What he is proposing is to set the building far enough back from the street so it will not be an aesthetics issue. There is also adequate grade and fences around the property to obscure the view from most neighbors. The property itself is 2-1/2 times the normal size lot for the area. Most of the neighboring lots are in the 10,000 square foot range. This lot is over 26,000 square feet. It is not encroaching on any of the neighbors. There is a 6-foot cedar fence by the property to the north, which would be the closest to the structure. The overall height of the building would be approximately 16 to 16 1/2-feet. The fence is 6-feet and 4-feet above grade. It is not a concern to that neighbor, who is the closest neighbor to the proximity of the building.

Chairman Lane commented that the idea was brought up that part of the reasoning for the size of the building isn't just the size of the lot but the size of the buildings in town. Mr. Harlow stated that he understood that and had eliminated the building size encroachment issue with the size of the lot, as he sees it and with talking to the surrounding neighbors. Commissioner Poelman asked Mr. Harlow if he could explain how the building is not made to look like a Quonset-hut. He replied that the frontal view will have a squared-off façade so that from the street it will be all that is seen. The back of the building does have a Quonset-look but the vegetation and trees are sufficient to block the view from the neighbors in the back. It will be almost impossible for the house on the south to see it. There is also a 6-foot cedar fence on the south side. He said he may be putting in additional screening in the future. Mr. Harlow stated that he intends to use the building as a large garage.

Chairman Lane asked about the secondary building. Mr. Harlow replied that the secondary building could be removed after the shop is completed but he would rather keep it if he could. That building provides additional screening from the neighbors as it is located between the neighboring backyards and the new building. He did not feel that the type of structure was a legitimate argument because if he took 13-feet off the building and took the existing outbuilding off, there would be no restrictions. He understands the concerns and is looking to mitigate those circumstances but feels there is no legitimate reason for denying the building.

Commissioner Poelman asked what the façade is going to look like. Mr. Harlow replied that the façade is actually salvaged 6-inch wood lap siding. It will have an antique-stained white-wash finish to it. He said that he guaranteed it would never have vinyl siding because he detests vinyl siding. The whole intent was to have it as something he is willing to look at everyday when he pulls into his driveway. He does not want it to look like an industrial or agricultural building that is why the façade from the front is the only thing that people will really see as they drive down the

street. The back is a T1-11 solid cedar plywood-type grooved siding with mitered grooves about every foot in the plywood. Mr. Harlow stated that he intends to paint it.

Commissioner Poelman asked Mr. Harlow if he had seen the Staff comments. He replied that he had not. Commissioner Poelman asked about the Staff comments regarding metal type buildings being required to be bonded and the structure not complying with light frame provisions of the code. Mr. Teuscher stated that a professional engineer will have to stamp the building plans. The building code has specific requirements that the Building Official cannot waive. It may be that this building needs some kind of guarantee. He is not sure what that is. Mr. Harlow said he had not talked to the Building Official.

Commissioner Nielsen asked if the building was made out of galvanized material and if Mr. Harlow intended to paint it. Mr. Harlow replied that it is galvanized but the manufacturer recommends not painting the surfaces.

Commissioner Poelman asked if this application should be continued since the applicant had not seen the Staff comments. Mr. Harlow replied that if there are code requirements that he has not seen, he is willing to work with Code Enforcement to be able to come to an understanding to meet those requirements.

Commissioner Nielsen said there are some Staff comments that are of some significance. For example; the electrical department commented that standoffs for underground power are not allowed to be installed on a city utility pole so an additional utility pole will need to be installed. Mr. Harlow said he is open to suggestions. A secondary power pole could be installed to bring the power down the north property line and then into the house. The existing power line does cross over where the building is planned to be set. The power line would actually have to be raised five-feet to clear the building. Mr. Teuscher stated that Alan Wright, Brigham City Public Power Director, said that he will not allow standoffs for the underground power. The power pole that Mr. Harlow would need to put in would be maintained by Mr. Harlow.

Commissioner Coleman suggested Mr. Harlow quickly review the Staff comments so he wouldn't have to wait until the next meeting for a decision. Commissioner Coleman also stated that he did not know why Mr. Harlow did not receive a copy of the Staff comments. Mr. Teuscher stated that they had been mailed out. Mrs. Harlow said that their mail does not always get delivered to their house. Commissioner Poelman asked if the neighbors received notification. A neighbor, in the audience, stated that he did receive notification; that is the reason he attended the meeting. The Harlows stated that they received the notification but not the comments.

Commissioner Nielsen asked if they were going to run water or sewer to the building or just electrical. Mr. Harlow replied that there is no intent for water or sewer at this point. Commissioner Nielsen asked Mr. Teuscher how he can know or how he can find what the permitted uses in a residential zone, in the code, are. Mr. Teuscher replied that in the code there is a table in the uses section that lists all the allowed permitted and conditional uses. The residential list is short and the commercial list is pages long. Most residential zone uses are home occupation conditional uses, depending upon what they are proposing. Major conditional uses come before the Planning Commission.

Commissioner Coleman commented that he did not see much concern with the water and sewer since Mr. Harlow had no intent to install them. Commissioner Coleman asked about the reflective surface of the building. Mr. Harlow explained that his property is sloped, he had leveled it and it has an approximate 3-foot to 4-foot drop as it goes back along the property line. Commissioner Poelman asked why the manufacturer recommended not painting the surface. Mr. Harlow stated that he did not know other than in order to get paint to adhere to the galvanized surface, the galvanization needs to be removed by acid-etching.

Doug Madock, a neighbor to the north of the Harlows, spoke from the audience. Mr. Madock stated that he has known about the building from the day Mr. Harlow purchased it. He has

nothing against the building being put there. The supposed glare that may be an issue will not be an issue with him and his wife. They know where it is going to be located and that it will be very large. He feels that it should be allowed.

Commissioner Coleman asked to be shown where the garage is going to be placed. Mr. Teuscher showed him on the plat map where the lot is and where the building is going to be placed.

Commissioner Poelman asked about Mr. Goodrich. Mr. Harlow stated that he had not been able to talk directly to him. He is not sure if he actually lives there. The residents only speak Spanish and Mr. Harlow does not.

Commissioner Poelman asked about the neighboring properties with trees that had been mentioned. Mr. Harlow said those properties had existing trees, fences and a lot of other vegetation growing along the backside. He stated that when he stands in his yard it is difficult to spot any of the windows on the backs of any of the houses. The only one that he can see is placed right at the front of the existing building. That is why keeping that building would be a benefit as additional screening for the new building.

Commissioner Coleman stated that normally he would not like to see a building that big in a residential area but Mr. Harlow has made a good faith effort in trying to hide the building.

Chairman Lane stated that he felt the existing building needs to be addressed. There needs to be a reason to allow the existing building to remain if the application for the new building is going to be approved. Commissioner Nielsen agreed that if the conditional use is approved there needs to be some justification for allowing the existing building to remain. He agreed with what Commissioner Coleman said but is also of a mind that he is not sure that this building is an appropriate thing to put in a residential part of the city. There needs to be justification in doing so.

**MOTION:** A motion was made by Commissioner Coleman to approve APPLICATION #2828 / CONDITIONAL USE PERMIT / ACCESSORY BUILDING / 461 SOUTH 100 EAST / KENNETH & CAROL HARLOW based on the comments the Planning Commission has made that the applicant has looked at the Staff comments and will comply with all Staff comments for building code and Staff requirements with the exception of the recommendation of the supplier, due to the fact that the supplier recommends that the galvanized material not be painted; based on the finding of fact that the applicant in good faith effort is trying to hide the size of the building and his neighbors have shown no objection to the building; that there will be a fence and he will at least provide some kind of blockage; that the existing building, as shown on his diagram, be taken down and that it is an allowed use in our Ordinance. The motion was seconded by Commissioner Peterson.

**DISCUSSION:** Commissioner Peterson asked if it could be added to the motion that the accessory building already on the property may remain as it provides additional shielding of the new building from the neighboring properties. Chairman Lane said there needs to be a reason that the existing building is being allowed to remain. Commissioner Coleman agreed to amend his motion as suggested. Commissioner Poelman suggested adding to the motion that the façade of the building be regularly maintained. Commissioner Coleman agreed to amend the motion on both accounts and was seconded by Commissioner Peterson.

Commissioner Nielsen commented that, in his view, it is not an appropriate size building to put in that neighborhood of the city. Mr. Harlow commented that at the time the building was purchased it was with the understanding that he did have the 2,000 square-foot limit. The plan at the time was to remove the existing

structure. The size dimension was not 100% accurate. The discrepancy was not intended to push the limits.

**ROLL CALL:**

Deen Coleman – Yea  
Reese Nielsen – Nay  
Joan Peterson – Yea  
Barbara Poelman – Yea  
David Hipp – Nay

The motion passed 3 to 2.

~~**APPLICATION #2827 / BRIGHAM CITY CULINARY WATER FLORIDATION BUILDING /  
BRIGHAM CITY CORPORATION**~~

**APPLICATION #2651 / DESIGN GUIDELINE ORDINANCE FOR THE BRIGHAM CITY/PERRY CITY INTERLOCAL AGREEMENT AREA IDENTIFIED AS “THE COMMONS AREA”, LOCATED WEST OF MAIN STREET AND SOUTH OF 1100 SOUTH / BRIGHAM CITY CORPORATION**

Staff has made changes to the design guidelines.

Commissioner Nielsen commented on the wording that was discussed previously which was; ‘as measured at the lot line of any adjoining residential property’. He asked if there was a problem with putting those words in as opposed to ‘any residential use’. Mr. Teuscher suggested the word ‘use’ instead of ‘property’. Commissioner Nielsen asked for an explanation as to the difference of wording. Mr. Teuscher decided it was really irrelevant as to whether the wording is ‘use’ or ‘property’. It was decided to leave the wording as ‘residential property’.

Mr. Teuscher stated that the other change was on street trees being 1½-inch caliper. Perry City has made their recommendation but it has not yet been put on their City Council agenda. Perry went with 3-inch caliper trees. Mr. Teuscher said he had talked to Judy Hartvigson, Perry City, and she said they may bring it back and adjust it to be consistent with our recommendation. The biggest issue Perry will have is that they have residential uses more adjacent to this area than Brigham City. Mr. Teuscher said he would work it out.

Mr. Teuscher informed the Commission that an RFP had been released to hire a consultant. On the 23<sup>rd</sup> of August the Quality Growth Commission will meet and the City will probably get a grant to match our budget. Perry has budgeted \$10,000 and Brigham City is budgeting \$30,000 to hire one consultant to write design guidelines for West Forest and the Commons Area. We will move ahead with this. The current guidelines will act as interim until the consultant replaces them.

**MOTION:** A motion was made by Commissioner Nielsen to submit to the City Council with a recommendation for approval **APPLICATION #2651 / DESIGN GUIDELINE ORDINANCE FOR THE BRIGHAM CITY/PERRY CITY INTERLOCAL AGREEMENT AREA IDENTIFIED AS “THE COMMONS AREA”, LOCATED WEST OF MAIN STREET AND SOUTH OF 1100 SOUTH / BRIGHAM CITY CORPORATION** with the two changes of tree caliper size and the reloading operations of the noise standard. The motion was seconded by Commissioner Poelman and passed unanimously.

**PUBLIC INPUT:**

There was no public input.

**DISCUSSION: CHAPTER 29.12 / SENSITIVE OVERLAY ZONE**

Commissioner Nielsen commented that they have talked about it but he, at this point, has not had a chance to look at the comments in detail and asked when the map would be available to read in conjunction with the comments.



Mr. Teuscher replied that most of the items show up in the General Plan map. They are consistent with the sensitive areas shown in sections 8 or 9 of the General Plan. The only one that is not available is the FEMA flood ways, which are being redone.

Commissioner Coleman asked why we are putting it in our Ordinance since this is a State issue. Mr. Teuscher replied that the reason it is being put into our Ordinance is because we have to regulate it. The State regulates a permit to build but the City sets the requirements beyond what the State requires. The State will look at crossing a State waterway but the City is obligated to regulate the floodway. Commissioner Coleman suggested that the State would have its own codes or restrictions to build before approving and asked why the City would add to it. Commissioner Nielsen asked if the State regulates where one can build on fault lines or near wild fire hazards and various areas. He commented that the City is putting in an additional layer of protection for those in the Code. Mr. Teuscher stated that we are coordinating with the State.

Commissioner Nielsen asked if, at some point, the Commission asks the City Council to adopt this. Mr. Teuscher replied that it will go into the Zoning Code and will eliminate existing Chapters 12 and 21. There will be a public hearing at some point in the future. Mr. Teuscher suggested that the Commissioners read through it and the Staff will adjust it as needed. Before the public hearing is held he wants to send it out so the public can have time to review it before the public hearing. The residents along the creek are the ones that will be affected the most so it may be more effective to mail copies out to those residents. Commissioner Nielsen suggested sending out copies to those who may be interested in developing in Brigham City. Commissioner Coleman suggested an article be put in the paper. Mr. Teuscher said that it is a substantial change and the public needs to know. He wants to put it on the next agenda and if there are areas that the Commission feels is too restrictive they need to let him know. Jim Buchanan, Emergency Services Director, likes it.

Commissioner Coleman commented that he thinks it's wise to address overlay zones that are dangerous. Mr. Teuscher said the outline of this ordinance came from the Quality Growth Commission, from Envision Utah's suggestion. He said he married about three or four ordinances to bring the City into line and took the existing codes and molded it. He likes the format because it delineates out water sensitive areas and then breaks them down separately to treat them as independents which turn them into overlay zones that attach additional standards in those specific areas so it does not hurt areas that do not have any of these requirements.

Commissioner Nielsen asked what happened with the General Plan. Chairman Lane replied that the City Council felt that the Commission had really done their duty and felt good about it. Mr. Teuscher said that the General Plan is up for approval to adopt at the next Council meeting and he has no reason to say that they would not do so. The Mayor had a few areas that needed to be tweaked in wording and sentences. Commissioner Nielsen made the comment that he felt it needed a map to go along with it so people can see the areas they are reading about. Mr. Teuscher said the only area that will not be on the map is the new FEMA flood plain. In section 030 there should be some kind of statement made that if an item, such as the flood plain, is amended that the latest version be deferred to.

Commissioner Poelman asked Mr. Teuscher to look at 10 on page three sometime. She said it seems like there is something missing. There is no clarification there. Every other section says it must meet the requirements except that one.

**MOTION:** A motion was made by Commissioner Nielsen to adjourn. The motion was seconded by Commissioner Coleman and passed unanimously.

The meeting adjourned at 7:34 p.m.

*This certifies that the minutes of July 18, 2006 are a true and accurate copy as approved by the Planning Commission on \_\_\_\_\_.*

*Signed: \_\_\_\_\_  
Jeffery R. Leishman, Secretary*